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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/773,241	01/31/2001	John C. Molander	8409	6142

27752 7590 02/21/2003

THE PROCTER & GAMBLE COMPANY  
INTELLECTUAL PROPERTY DIVISION  
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CINCINNATI, OH 45224

EXAMINER
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GRAYSON, ANGELA J

ART UNIT	PAPER NUMBER
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3765

DATE MAILED: 02/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)
	09/773,241	MOLANDER ET AL.
	Examiner Angela J. Grayson, Esq.	Art Unit 3765

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

1) Responsive to communication(s) filed on 31 January 2001.

2a) This action is FINAL.                    2b) This action is non-final.

3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

4) Claim(s) 1-20 is/are pending in the application.

4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

5) Claim(s) \_\_\_\_\_ is/are allowed.

6) Claim(s) 1-20 is/are rejected.

7) Claim(s) \_\_\_\_\_ is/are objected to.

8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

9) The specification is objected to by the Examiner.

10) The drawing(s) filed on \_\_\_\_\_ is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11) The proposed drawing correction filed on \_\_\_\_\_ is: a) approved b) disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.

12) The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

14) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) The translation of the foreign language provisional application has been received.

15) Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

1) Notice of References Cited (PTO-892)  
 2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
 3) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 3.

4) Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.  
 5) Notice of Informal Patent Application (PTO-152)  
 6) Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-3, 5-10, 14, 16-17, 20 are rejected under 35 U.S.C. 102(b) as being anticipated by Aledo US Patent No. 4,850,988.

As to claim 1, Aledo discloses a disposable article comprising a containment assembly (Figure 3 member 22) longitudinal edges, at least one side panel carried by the containment assembly (Figure 3 members 15 and 16), and extending outwardly, the at least one side panel including an inner region having at least one discontinuity (Figure 3 member 18) for dividing a tensile force applied to the at least one side panel into a waist-directing force and a leg-directing force (col. 3 lines 44-54; col. 4 lines 10-17).

As to claim 2, Aledo discloses a disposable article wherein at least one side panel further includes a waist region and leg region separated therefrom by the at least one discontinuity (Figure 3 member 18), the waist region is configured to transmit the waist-directing force, and the leg region is configured to transmit the leg-directing force (col. 4 lines 10-17).

As to claim 3, Aledo discloses a disposable article wherein the leg region and the waist region diverge from each other in a direction from an outer panel of the side panel

toward a longitudinal centerline of the containment assembly (Figure 2 side panels, not labeled but are shown as diverging outwardly).

As to claim 5, Aledo discloses a disposable article wherein the waist region has a greater width than the leg region (Figure 1 and 2 where the areas 15, 19, 16 are extending further than area 13).

As to claim 6, Aledo discloses a disposable article wherein at least one continuity is defined by at least one cut line. (Figure 2 member 18).

As to claim 7, Aledo discloses a disposable article wherein at least one cut line is rectilinear (Figure 3 member 17).

As to claim 8, Aledo discloses a disposable article wherein at least one cut line is disposed substantially parallel with a first lateral edge of the side panel (Figure 3 member 17 parallel with waist edge).

As to claim 9, Aledo discloses a disposable article wherein at least one discontinuity includes at least one opening. (Figure 3 member 17 at end edge).

As to claim 10, Aledo discloses a disposable article wherein at least one opening is defined by a substantially triangular open area or a substantially rectangular open area or a substantially trapezoidal open area (Figure 3 members 17 and 18 make up a substantially triangular open area).

As to claim 14, Aledo discloses a disposable article wherein at least one cut line is curvilinear (Figure 3 member 18).

As to claims 16 and 17, Aledo discloses a disposable article wherein the waist-directing force in the waist region of the side panel extends at an angle ranging from

about 0 to about 45° relative to a lateral centerline of the disposable article, and wherein the leg-directing force in the leg region of the side panel extends at an angle ranging from about 10 to about 35° relative to the lateral centerline of the disposable article; wherein the waist-directing force in the waist region of the side panel extends at an angle ranging from about 10 to about 15° relative to a lateral centerline of the disposable article, and wherein the leg-directing force in the leg region of the side panel extends at an angle ranging from about 20 to about 30° relative to the lateral centerline of the disposable article. (Figures 1, 2, and 3 members 15, 16).

As to claim 20, Aledo discloses a disposable article further including a fastener for releasable engagement of at least one side panel with a surface of the containment assembly adjacent the second end edge of the disposable article for retaining the disposable article in an operative position on the body of the wearer. (Figure 1 members 15, 16).

#### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation

under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 4, 18, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aledo.

As to claims 4, 18, and 19, Aledo discloses a disposable article with elastic extensibility in the wasis and leg areas (Figure 1 members 13 and 14), but fails to disclose specifically wherein the waist region has an extensibility varying from about 5g/mm to about 50 g/mm and the leg region has an extensibility varying from about 1 g/mm to about 30 g/mm; wherein the side panel has an extensibility ranging from about 1 g/mm to about 50 g/mm; wherein the side panel is elastic and has an elasticity of at least about 5%. However, it would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the waist and leg elasticity with specific parameters, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

6. Claims 11-13, 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aledo in view of US Patent No. 5,536,555 to Zelazoski.

As to claims 11-13, 15, Aledo discloses a disposable garment but fails to disclose wherein at least one discontinuity is defined by a plurality of cut lines; wherein a plurality of cut lines includes three spaced cut lines; wherein a first cut line extends substantially

parallel to a lateral centerline of the side panel, a second cut line extends substantially parallel to the first lateral edge of the side panel, and a third cut line extends substantially parallel to a second lateral edge of the side panel; wherein the plurality of cut lines is disposed to define a substantially triangular array of spaced, curvilinear cut lines. However Zelazoski makes such a disclosure (Abstract; Figures 1, 2, 5, 6, 7, 8, 9). It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Aledo to incorporate the design of Zelazoski since Zelazoski suggests the laminate may be used for disposable garments (Zelazoski col. 3 lines 30-35).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Angela J. Grayson, Esq. whose telephone number is 703-305-1806. The examiner can normally be reached on Monday-Thursday from 9:30 am to 7:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John J. Calvert can be reached on 703-305-1025. The fax phone numbers for the organization where this application or proceeding is assigned are 703-872-9302 for regular communications and 703-872-9303 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0873.

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Angela J. Grayson, Esq. *AG*  
February 19, 2003



**Rodney M. Lindsey**  
**Primary Examiner**